THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.9012 of 2006

Dated:27.04.2006

Between:

S.Rajagopal Reddy, and others.

..... PETITIONER

AND

The Mandal Revenue Officer, Chittoor District, and others.

.....RESPONDENTS

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.9012 of 2006

ORDER:

The land admeasuring Acs.20.60 cents in Survey Nos.539 and 540 of Kotavooru Village, B.Kothakota Mandal, Chittoor District, was alienated/assigned to Horsely Hills Co-operative House Building Society (Horsely Society, for brevity) vide orders

of the Government of Andhra Pradesh in G.O.Ms.No.593, dated 02.06.1972. The Horsely Society divided the land into plots and sold as house sites to its members during the year 1986 and 1987. The petitioners also purchased house sites from the Horsely Society. It is alleged by the petitioners that two weeks ago the revenue officials put up boards near the petitioners' plots claiming that it is a Government land. On enquiry, the petitioners came to know that the Mandal Revenue Officer passed orders on 24.01.1992 in proceedings No.Roc.B.1476/91 ordering resumption of land, except the land covered by houses of nine members of the Society. This order dated 24.01.1992 is challenged now in this Writ Petition after a lapse of about 14 years.

The learned Counsel for the petitioners vehemently contends that no notice was issued to the petitioners herein, and therefore, the impugned order is void. He also submits that the petitioners have constructed houses, and therefore, the assumption made by the second respondent that the land was not utilized for construction of houses is factually incorrect. He submits that as there was no notice to the petitioners, in spite of lapse of 14 years, the writ petition is still maintainable.

A perusal of the impugned order passed by the Mandal Revenue Officer, the first respondent herein, would show that a notice was issued to the President of the Horsely Society. He sent a reply on 16.01.1992 stating that in spite of number of reminders, the members have not constructed houses. Therefore, the allegation that no notice was issued, cannot be accepted. It is now settled law that when a person is a member of the Co-operative Society, issue of notice to the Society is sufficient compliance in the principles of natural justice, and the members cannot separately claim any notice. The Supreme Court in its judgment in **Daman Singh v. State of Punjab**, held as under.

> …We have no hesitation in rejecting this submission also. Once a person becomes a Member of a co-operative society, he loses his individuality qua the society and he has no independent rights except those given to him by the statute and the by-laws. He must act and speak through the society or rather, the society alone can act and speak for him qua rights or duties of the society as a body. So if the statute which authorises compulsory amalgamation of co-operative societies provides for notice to the societies concerned, the requirement of natural justice is fully satisfied. The notice to the society will be deemed as notice to all its members. That is why S. 13(9)(a) provides for the issue of notice to the societies and not to individual members. S.13(9)(b), however, provides the members also with an opportunity to be heard if they desire to be heard. Notice to individual members of a co-operative society, in our opinion, is opposed to the very status of a co-operative society as a body corporate and is, therefore, unnecessary. We do not consider it necessary to further elaborate the matter except to point out that a member who objects to the proposed amalgamation within the prescribed time is given, by S. 31(11), the option to walk-out, as it were, by withdrawing his share, deposits or loans as the case may be.

A reading of the impugned order shows that notice was issued to the

President of the Horsely Society and he sent a reply. This was dealt with by the Mandal Revenue Officer in his order as under.

> However, the reasons put forth by the President for not utilizing the land for which it was given, are not convincing. Several Buildings have come up during recent years also and thereby the reason of not adequate supply of water for non-construction of houses by the members is not correct. Location of Private School in the land allotted for House sites without prior approval is not in accordance with the conditions of the grant. The present School is being run for outsiders and not for the dwellers of the Society at Horsely Hills nor for the local residents in the village and the lease of Land to the Private School Management is irregular. The agreement in between the School Management and the House Plot Owners in providing accommodation to the House Site Owners during summer months, speaks that the plot owners have no intimation to construct their house and they have to lease out the Land to School authorities. This is rather peculiar agreement. The Vacant site will be granted or allotted to a member of the Society to construct own house. The Govt. have authorized the Tourism Dept. to lease out certain buildings for a period of 6 years in G.O.Ms.No.800 dt. 09-12-1974 but not 9 years as stated by the President of the Society which is also relevant to the present issue and the said lease deed expired by 8-12-80 in the absence of …

The above observations are self-explanatory and the reasons therein for cancellation and resumption of the land are valid. The impugned order does not suffer from any vice requiring judicial review.

The Writ Petition is therefore, dismissed. No costs.

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(V.V.S.RAO, J)

27.04.2006

vs